

AMENDED IN ASSEMBLY MAY 18, 2004
AMENDED IN ASSEMBLY SEPTEMBER 8, 2003
AMENDED IN ASSEMBLY SEPTEMBER 3, 2003
AMENDED IN ASSEMBLY AUGUST 26, 2003
AMENDED IN SENATE JUNE 4, 2003
AMENDED IN SENATE APRIL 30, 2003
AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 23

Introduced by Senators Sher and Burton

(Coauthors: Assembly Members Hancock, Jackson, Hancock, and Koretz)

December 2, 2002

~~An act to amend Sections 14528.1, 14549, 14549.1, 14549.5, 14549.6, 14552.5, 14552.51, 14560, 14561, 14573.51, 14575, 14575.1, 14575.2, 14581, and 14585 of, and to add Sections 14513.5, 14575.5, and 14582 to, the Public Resources Code, relating to beverage containers~~ *An act to add Items 0690-490 and 0690-491 to Section 2.00 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003), relating to the support of state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Sher. ~~Beverage containers~~ *Budget Act of 2003. The Budget Act of 2003 (Ch. 157, Stats. 2003), made appropriations for the support of state government during the 2003-04 fiscal year.*

This bill would amend the Budget Act of 2003 by reappropriating to the Office of Emergency Services the balance of certain appropriations, previously made to the former Office of Criminal Justice Planning, necessary for the Office of Emergency Services to take over certain functions of the former Office of Criminal Justice Planning. That latter office was abolished by Chapter 229 of the Statutes of 2003, with its powers, authority, duties, and obligations transferred to and assumed by an agency or agencies designated by the Director of Finance. This bill also would reappropriate a portion of the funds previously appropriated to the former Office of Criminal Justice Planning to the Office of Emergency Services to enable that office to perform specified accounting workload associated with grant activities.

This bill would provide that it is to take effect immediately as an urgency statute.

~~(1) The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. Existing law sets the amount of the redemption payment as 2.5¢ for every beverage container, and 5¢ for beverage containers with a capacity of 24 or more fluid ounces. The department is required to pay a processor the refund value for every empty beverage container received by the processor from a recycler and existing law sets the refund value as 5¢ for every 2 beverage containers redeemed or for a single beverage container with a capacity of 24 or more ounces and 3¢ for a single beverage container. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.~~

~~A violation of the act is a crime.~~

~~This bill would increase the amount of the redemption payment to 4¢ for every beverage container sold or transferred and would increase the redemption payment for beverage containers with a capacity of 24 or more ounces to 8¢. The bill would increase the refund value to 8¢ for every 2 beverage containers redeemed or for a single beverage container with a capacity of 24 or more ounces, and 4¢ for a single beverage container. The bill would also provide for an increase in the amount of the redemption payment, on July 1, 2007, to 5¢ and, if the beverage container has a capacity of 24 ounces or more, to 10¢, if the aggregate recycling rate for all beverage containers subject to the act is~~

less than 75% for the 12-month reporting period from January 1, 2006 to December 31, 2006, or is less than 80% for the 12-month reporting period from January 1, 2008 to December 31, 2008. Since these funds would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also make conforming changes regarding the labeling requirements for beverage containers subject to the act.

(2) The existing act authorizes the department to pay a quality glass incentive payment of up to \$25 per ton, not to exceed a total amount of \$3,000,000 per calendar year. The department is authorized to make these payments to an operator of any curbside recycling program or any certified entity that color-sorts glass beverage containers for recycling.

This bill would increase the amount of the payment to \$30 per ton.

(3) The act authorizes the department to annually pay curbside programs and neighborhood dropoff programs up to \$15,000,000, based on the volume of containers collected during the fiscal year.

This bill would revise the method of determining the volume of beverage containers collected, for purposes of these payments, to the volume collected during the calendar year.

(4) Under the act, whenever a glass container manufacturer rejects a load of redeemed glass, the glass container manufacturer is required to fill out a standardized rejection form. A certified processor seeking to dispose of those containers is prohibited from disposing of those rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. Existing law requires glass container manufacturers and processors to take all possible steps to avert the disposal of the loads of postfilled containers, as determined by the department.

This bill would revise these provisions to instead require every container manufacturer to fill out a standardized rejection form and would include all beverage container materials within those disposal prohibitions. Because a violation of the act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

(5) Existing law requires the department to annually review and, if necessary in order to ensure payment of the most accurate commingled rate feasible, recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers.

~~This bill would require the department to conduct this review by the 90th day after the effective date of the bill, and annually thereafter.~~

~~The bill would authorize the department, to calculate a specified curbside program commingled rate for bimetal containers and specified types of plastic containers. The bill would authorize the department to enter into a contract to calculate the commingled rate and would authorize the department to not calculate the commingled rate, if the department determines specified revenues are insufficient to pay for that contract.~~

~~(6) The existing act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The scrap value is required to be based upon the actual costs for recycling a container type and the department is required to make this determination every 3rd year. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. The department is required to set the processing fee to equal 65% of the processing payment that the department pays to processors, but the department is required to reduce the amount of the processing fee, based upon the availability of funds in each materials processing fee account for that beverage material type, so that the amount of the processing fee equals 25% of the processing payment.~~

~~Existing law requires the department to deposit the processing fees and an amount of funds equal to 75% of the processing payments in separate processing fee accounts in the fund, and the money in each processing fee account is continuously appropriated to the department to pay processing payments. A processing fee is not imposed on a PET plastic beverage container if a willing purchaser offers to purchase empty plastic beverage containers at a voluntary artificial scrap value, as defined, that, when combined with specified payments, is equal to or less than the recycling cost.~~

~~This bill would require the department to calculate the processing payments for 2003, based on the January 1, 2002, recycling costs, and to determine the actual costs for certified recycling centers, on and after January 1, 2004, every 2nd year, as annually adjusted for inflation.~~

~~The bill would delete the requirement that the department reduce the amount of the processing fee to equal 25% of the processing payment, and would instead require that the processing fee be reduced to a specified percentage of the processing payment, based on the recycling rate of that container type. The bill would also revise the amount of~~

~~funds that the department is required to deposit in the separate processing fee accounts in accordance with the changes made by the bill, thereby making an appropriation. The bill would prescribe the recycling costs for non-PET plastic containers for the January 1, 2002, calculation of the processing fee.~~

~~The bill would authorize the department to adjust the amount of the processing payment not more than once every 3 months, if the department makes certain determinations.~~

~~This bill would revise the definition of voluntary artificial scrap value and would instead prohibit the imposition of a processing fee on PET plastic containers, if a willing purchaser offers to purchase empty PET containers at a voluntary artificial scrap value that is equal to the reduced processing fee when applied to all containers sold.~~

~~The bill would require the department to establish a supplemental processing payment that would be paid by the department to a processor, who would be required to pay that amount to a recycler. The bill would authorize a recycler to receive a supplemental processing payment if the recycler receives processing payments and would require those supplemental processing payments to be based on the volume of redeemed containers subject to that supplemental processing fee that the recycler reports for each whole month, commencing on July 1, 2004, and continuing for a period of 12 consecutive months. The bill would specify the amount of the supplemental processing payments for glass, PET plastic containers, and HDPE plastic containers. The bill would require a recycler to report to a processor the volume of redeemed containers subject to the supplemental processing payments. The bill would require the department to pay the supplemental processing payments on eligible redeemed containers to processors in the same manner as it pays refund values, except as specified.~~

~~The bill would require the department to establish a processing fee rebate for manufacturers for all beverage containers for which a processing fee was paid on containers sold between January 1, 2002, and December 31, 2003. The bill would continuously appropriate the money in the fund to the department to make those rebates, thereby making an appropriation.~~

~~(7) Existing law requires the department to pay a total of \$23,500,000 annually in handling fees to supermarket sites and certain recyclers to provide an incentive to redeem beverage containers, and requires, as a condition of eligibility for these payments, that the site or recycler redeem not less than 60,000 beverage containers or, except for~~

~~nonprofit organizations, not more than 500,000 beverage containers, during the calendar month in which the handling fee is paid.~~

~~This bill would increase to \$26,500,000 the amount the department is annually required to expend to pay these handling fees, thereby making an appropriation. The bill would provide for an alternative handling fee eligibility requirement of redeeming an average of not less than 60,000 beverage containers per month during the previous 12 months and would delete the limit of 500,000 beverage containers.~~

~~(8) Existing law requires the department to annually expend \$300,000 until January 1, 2003, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign to prevent and cleanup beverage container litter. Under the existing program, \$500,000 may be expended annually in the form of grants for beverage container recycling and litter reduction programs. Existing law requires the department to expend, from January 1, 2000, to January 1, 2002, up to to \$10,000,000 for a statewide public education campaign to promote increased recycling.~~

~~This bill would extend the date for the statewide public education campaign to prevent and cleanup beverage container litter to January 1, 2004, thereby making an appropriation. The bill would authorize the department to annually expend up to \$5,000,000 for a statewide public education campaign to increase recycling, thereby making an appropriation. The bill would increase to \$1,500,000, the sum authorized to be spent annually in the form of grants for beverage container recycling and litter reduction programs, thereby making an appropriation. The bill would authorize the department to spend up to \$10,000,000 annually, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, thereby making an appropriation.~~

~~The bill would authorize the department to transfer up to \$10,000,000 to the Recycling Infrastructure Loan Guarantee Account, which the bill would create as a revolving account in the California Beverage Container Recycling Fund. The bill would continuously appropriate the money in the account to the department to issue loan guarantees for capital expenditures for new recycling infrastructure located in the state and would allow the department to issue a loan guarantee from the account only if the department makes specified determinations.~~

~~(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(10) The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 14513.5 is added to the Public~~
2 SECTION 1. Item 0690-490 is added to Section 2.00 of the
3 Budget Act of 2003 (Chapter 157 of the Statutes of 2003), to read:
4
5 0690–490—Reappropriation, Office of Emergency Services.
6 Pursuant to Section 25.00 of the Budget Act of 2003 (Ch.
7 157, Stats. 2003) and Chapter 229 of the Statutes of
8 2003, the Office of Criminal Justice Planning was
9 abolished effective January 1, 2004, and the Office of
10 Emergency Services assumed many transferred
11 activities. Therefore, the balance of the appropriation
12 provided in the following citations is reappropriated for
13 the purposes provided for in that appropriation, except
14 for the purpose provided for in Provision 1, and shall be
15 available for encumbrance and expenditure until June
16 30, 2005:
17 0001—General Fund
18 (1) Item 8100–101–0001, Budget Act of 2001 (Ch. 106,
19 Stats. 2001)
20 (2) Item 8100–101–0001, Budget Act of 2002 (Ch. 379,
21 Stats. 2002)
22 0268—Peace Officers’ Training Fund
23 (1) Item 8100–101–0268, Budget Act of 2001 (Ch. 106,
24 Stats. 2001)
25 0425—Victim–Witness Assistance Fund
26 (1) Item 8100–101–0425, Budget Act of 2001 (Ch. 106,
27 Stats. 2001)

(2) *Item 8100–101–0425, Budget Act of 2002 (Ch. 379, Stats. 2002)*

0597—High Technology Theft Apprehension and Prosecution Program Trust Fund

(1) *Item 8100–101–0597, Budget Act of 2001 (Ch. 106, Stats. 2001)*

(2) *Item 8100–101–0597, Budget Act of 2002 (Ch. 379, Stats. 2002)*

Provisions:

1. *\$1,130,000 of the balance reappropriated in Schedule (2) of Item 8100–101–0001 of the Budget Act of 2002 is hereby reappropriated to the Office of Emergency Services for transfer to and in augmentation of Item 0690–001–0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003) for the purpose of performing accounting workload associated with grant activities. As a result of this accounting work and grant review process, the Office of Emergency Services shall complete or contract to complete a report as to the results of the project and shall distribute that report to the Joint Legislative Budget Committee by October 1, 2004.*

SEC. 2. *Item 0690-491 is added to Section 2.00 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003), to read:*

0690–491—Reappropriation, Office of Emergency Services. Pursuant to Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003) and Chapter 229 of the Statutes of 2003, the Office of Criminal Justice Planning was abolished effective January 1, 2004, and the Office of Emergency Services assumed many transferred activities. Therefore, notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations is extended to June 30, 2005:

0001—General Fund
(1) *Item 8100–101–0001, Budget Act of 2000 (Ch. 52, Stats. 2000)*

SEC. 3. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety*

1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*

3 *This act provides necessary funding for current operations of*
4 *state government. It is necessary, therefore, that this act take*
5 *immediate effect.*

6 ~~Resources Code, to read:~~

7 ~~14513.5. “HDPE” means a plastic beverage container~~
8 ~~labeled with a “2” for high-density polyethylene resin pursuant~~
9 ~~to Section 18015 and subject to this division.~~

10 ~~SEC. 2. Section 14528.1 of the Public Resources Code is~~
11 ~~amended to read:~~

12 ~~14528.1. “Voluntary artificial scrap value” means a price~~
13 ~~paid by a willing purchaser of empty PET containers, that reflects~~
14 ~~the payment of the scrap value for all PET containers sold, and~~
15 ~~that, when combined with payments made from the PET~~
16 ~~processing fee account pursuant to clause (ii) of subparagraph (A)~~
17 ~~of paragraph (6) of subdivision (a) of Section 14581, is equal to,~~
18 ~~or more than, the recycling cost for empty PET containers, as~~
19 ~~determined in subdivision (d) of Section 14575.~~

20 ~~SEC. 3. Section 14549 of the Public Resources Code is~~
21 ~~amended to read:~~

22 ~~14549. (a) Every glass container manufacturer shall report to~~
23 ~~the department each month, by a method as determined by the~~
24 ~~department, the amount of total tons of new glass food, drink, and~~
25 ~~beverage containers made in California by that glass container~~
26 ~~manufacturer and the tons of California postfilled glass used in the~~
27 ~~manufacturing of those new containers.~~

28 ~~(b) Each glass container manufacturer in the state shall use a~~
29 ~~minimum percentage of 35 percent of postfilled glass in the~~
30 ~~manufacturing of their glass food, drink, or beverage containers~~
31 ~~measured in the aggregate, on an annual basis, except that if a glass~~
32 ~~container manufacturer demonstrates to the satisfaction of the~~
33 ~~department that its use of postfilled glass during the annual period~~
34 ~~is made up of at least 50 percent mixed-color cullet, then that~~
35 ~~manufacturer shall use a minimum percentage of 25 percent~~
36 ~~postfilled glass in the manufacturing of its glass food, drink, or~~
37 ~~beverage containers, measured in the aggregate, on an annual~~
38 ~~basis.~~

39 ~~(c) A glass container manufacturer may seek a reduction or~~
40 ~~waiver of the minimum postfilled glass percentage required to be~~

~~used in the manufacture of glass food, drink, or beverage containers pursuant to subdivision (b). The department may grant a reduction or waiver of the percentage requirement if it finds and determines that it is technologically infeasible for the glass container manufacturer to achieve the percentage requirement or if the department determines that a glass container manufacturer cannot achieve the minimum percentage because of a lack of available glass cullet.~~

~~(d) For the purposes of this section, “mixed-color cullet” means cullet that does not meet the American Society for Testing and Materials (ASTM) standard specifications for color mix of color-sorted postfilled glass as raw material for the manufacture of glass containers.~~

~~SEC. 4. Section 14549.1 of the Public Resources Code is amended to read:~~

~~14549.1. In order to improve the quality and marketability of glass containers collected for recycling in the state by curbside recycling programs, the department may, consistent with Section 14581 and subject to the availability of funds, pay a quality glass incentive payment to either an operator of a curbside recycling program registered pursuant to Section 14551.5, or to any other entity certified pursuant to this division, that color sorts glass beverage containers for recycling. The total amount paid by the department pursuant to this section shall not exceed three million dollars (\$3,000,000) per calendar year. The department shall make a quality glass incentive payment based on all of the following:~~

~~(a) The amount of the quality glass incentive payment shall be up to thirty dollars (\$30) per ton, as determined by the department.~~

~~(b) The department shall make a quality glass incentive payment only for color-sorted glass beverage containers that are substantially free of contamination.~~

~~(c) The department shall make a quality glass incentive payment only for glass beverage containers that are either collected color sorted by curbside recycling programs, or collected commingled by curbside recycling programs and subsequently color sorted by the collector or any other entity certified pursuant to this division.~~

~~(d) Only one payment shall be made for each color-sorted glass beverage container collected.~~

1 ~~SEC. 5. Section 14549.5 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~14549.5. On or before the 90th day after the effective date of~~
4 ~~the act amending this section, and annually thereafter, or more~~
5 ~~frequently as determined to be necessary by the department, the~~
6 ~~department shall review and, if necessary in order to ensure~~
7 ~~payment of the most accurate commingled rate feasible,~~
8 ~~recalculate commingled rates paid for beverage containers and~~
9 ~~postfilled containers paid to curbside recycling programs,~~
10 ~~collection programs, and recycling centers. Prior to recalculating~~
11 ~~a commingled rate pursuant to this section, the department shall do~~
12 ~~all of the following:~~

13 ~~(a) Consult with private and public operators of curbside~~
14 ~~recycling programs, collection programs, and recycling centers~~
15 ~~concerning the size of the statewide sample, appropriate sampling~~
16 ~~methodologies, and alternatives to exclusive reliance on a~~
17 ~~statewide commingled rate.~~

18 ~~(b) At least 60 days prior to the effective date of any new~~
19 ~~commingled rate, hold a public hearing, after giving notice, to~~
20 ~~make available to the public and affected parties the department's~~
21 ~~review and any proposed recalculations of the commingled rate.~~

22 ~~(c) At least 60 days prior to the effective date of any new~~
23 ~~commingled rate, and upon the request of any party, make~~
24 ~~available documentation or studies which were prepared as part of~~
25 ~~the department's review of a commingled rate.~~

26 ~~(d) (1) Notwithstanding this division, the department may~~
27 ~~calculate a curbside recycling program commingled rate pursuant~~
28 ~~to this subdivision for bimetal containers and a combined~~
29 ~~commingled rate for all plastic beverage containers displaying the~~
30 ~~resin identification code "3," "4," "5," "6," or "7" pursuant to~~
31 ~~Section 18015.~~

32 ~~(2) The department may enter into a contract for the services~~
33 ~~required to implement the amendments to this section made by the~~
34 ~~act of the first half of the 2003-04 Regular Session of the~~
35 ~~Legislature amending this section. The department may not~~
36 ~~expend more than two hundred fifty thousand dollars (\$250,000)~~
37 ~~for each year of the contract. The contract shall be paid only from~~
38 ~~revenues derived from redemption payments and processing fees~~
39 ~~paid on plastic beverage containers displaying the resin~~
40 ~~identification code "3," "4," "5," "6," or "7" pursuant to~~

~~Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to this subdivision.~~

~~SEC. 6. Section 14549.6 of the Public Resources Code is amended to read:~~

~~14549.6. (a) The department, consistent with Section 14581 and subject to the availability of funds, shall annually pay a total of fifteen million dollars (\$15,000,000) per fiscal year to operators of curbside programs and neighborhood dropoff programs that accept all types of empty beverage containers for recycling. The payments shall be for each container collected by the curbside or neighborhood dropoff programs and properly reported to the department by processors, based upon all of the following:~~

~~(1) The payment amount shall be calculated based upon the volume of beverage containers collected by curbside and neighborhood dropoff programs during the 12-month calendar year ending on December 31 of the fiscal year for which payments are to be made.~~

~~(2) The per-container rate shall be calculated by dividing the total volume of beverage containers collected, as determined pursuant to paragraph (1), into the sum of fifteen million dollars (\$15,000,000).~~

~~(3) The amount to be paid to each operator of a curbside and neighborhood dropoff program shall be based upon the per-container rate, calculated pursuant to paragraph (2), multiplied by the curbside program's total reported beverage container volume calculated pursuant to paragraph (1).~~

~~(b) The amounts paid pursuant to this section shall be expended by operators of curbside and neighborhood dropoff programs only for activities related to beverage container recycling.~~

~~(c) The department shall disburse payments pursuant to this section not later than the end of the fiscal year following the calendar year for which the payments are calculated pursuant to paragraph (1) of subdivision (a), subject to the availability of funds.~~

~~(d) The operator of a curbside program or neighborhood dropoff program shall make available for inspection and review~~

1 any relevant record that the department determines is necessary to
2 verify compliance with this section.

3 ~~SEC. 7. Section 14552.5 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~14552.5. (a) The department shall supply all certified~~
6 ~~processors with a standardized rejection form that shall include,~~
7 ~~but not be limited to, the name of the parties rejecting the postfilled~~
8 ~~beverage container material, the date of the rejections, the reasons~~
9 ~~for the rejections, the amount of rejected material, and a detailed~~
10 ~~accounting of the steps taken by the processor and container~~
11 ~~manufacturer to avert landfilling or disposal of the material, as~~
12 ~~required by subdivision (c) of Section 14552.51.~~

13 ~~(b) Every container manufacturer shall fill out the standardized~~
14 ~~rejection form specified in subdivision (a) whenever that container~~
15 ~~manufacturer rejects a load of redeemed beverage container~~
16 ~~materials physically delivered to the manufacturer's place of~~
17 ~~business and offered for sale by a certified processor. The rejection~~
18 ~~form shall be filled out by the container manufacturer at the time~~
19 ~~of the rejection and immediately given to the certified processor~~
20 ~~for submittal to the department. Any container manufacturer who~~
21 ~~refuses to fill out the standardized rejection form required by this~~
22 ~~subdivision is in violation of this division and is subject to the fines~~
23 ~~and penalties in Sections 14591 and 14591.1.~~

24 ~~(c) If a processor has made a good faith effort, as determined~~
25 ~~by the department, to locate a willing purchaser and is~~
26 ~~unsuccessful, the processor may fill out the standardized rejection~~
27 ~~form specified in subdivision (a) and submit it to the department.~~
28 ~~The processor rejection form shall include, but is not limited to, the~~
29 ~~name of the processor, the container manufacturers and other~~
30 ~~potential purchasers contacted, a detailed accounting of the~~
31 ~~methods used to contact the potential buyers, the date of the~~
32 ~~rejections, the reasons given for the rejections, the amount of~~
33 ~~postfilled beverage container material rejected, and any other steps~~
34 ~~taken to avert landfilling or disposal of the material.~~

35 ~~(d) If a container manufacturer rejects a load of postfilled~~
36 ~~containers by telephone, written correspondence of any kind, or~~
37 ~~other similar method, the container manufacturer shall, in a~~
38 ~~manner prescribed by the department, keep accurate logbooks of~~
39 ~~the offer of loads by the certified processor, and make that logbook~~
40 ~~available for inspection by the department upon demand. The~~

1 logbook shall contain, but is not limited to, the same information
2 required in the rejection form pursuant to subdivision (a).

3 ~~(e) The standardized rejection form specified in subdivision (a)~~
4 ~~shall be submitted to the department by the certified processor with~~
5 ~~the written request to dispose of the redeemed material submitted~~
6 ~~pursuant to Section 14552.51. This material shall not be disposed~~
7 ~~of without a written authorization to do so by the department~~
8 ~~pursuant to Section 14552.51.~~

9 ~~(f) Nothing in this section shall be interpreted to lessen certified~~
10 ~~processors' and container manufacturer's responsibilities relating~~
11 ~~to beverage container recycling, or diminish in any way the~~
12 ~~department's authority to carry out the intent and goals of this~~
13 ~~division.~~

14 ~~SEC. 8. Section 14552.51 of the Public Resources Code is~~
15 ~~amended to read:~~

16 ~~14552.51. (a) A certified processor seeking to dispose of~~
17 ~~rejected postfilled containers may not dispose of rejected~~
18 ~~postfilled containers unless the certified processor first submits to~~
19 ~~the department, in writing, a request to dispose of the rejected~~
20 ~~material. No certified processor shall dispose of the rejected~~
21 ~~material prior to obtaining written permission from the~~
22 ~~department. If the department fails to respond to a written request~~
23 ~~to dispose of rejected postfilled beverage container materials~~
24 ~~within 10 days of receipt of the request, the processor's request for~~
25 ~~disposal is deemed approved by the department.~~

26 ~~(b) All rejected loads of postfilled containers shall be available~~
27 ~~and subject to inspection by the department.~~

28 ~~(c) All possible steps to avert the disposal of the loads of~~
29 ~~postfilled containers, as determined by the department, shall be~~
30 ~~taken by all container manufacturers and processors. All~~
31 ~~transactions or attempted transactions involving rejecting~~
32 ~~postfilled containers shall be thoroughly documented on the~~
33 ~~standardized rejection form pursuant to Section 14552.5. The~~
34 ~~container manufacturer and the certified processor are jointly and~~
35 ~~severally responsible for this effort.~~

36 ~~SEC. 9. Section 14560 of the Public Resources Code is~~
37 ~~amended to read:~~

38 ~~14560. (a) (1) Except as provided in paragraph (3), a~~
39 ~~beverage distributor shall pay the department, for deposit into the~~

1 fund, a redemption payment of four cents (\$0.04) for a beverage
2 container sold or offered for sale in this state by the distributor.

3 (2) A beverage container with a capacity of 24 fluid ounces or
4 more shall be considered as two beverage containers for purposes
5 of redemption payments and refund values.

6 (3) On and after July 1, 2007, the amount of the redemption
7 payment for a beverage container with a capacity of less than 24
8 fluid ounces sold or offered for sale in this state by a dealer shall
9 equal five cents (\$0.05) and the amount of redemption payment for
10 a beverage container with a capacity of 24 fluid ounces or more
11 shall be ten cents (\$0.10), if the aggregate recycling rate reported
12 pursuant to Section 14551 for all beverage containers subject to
13 this division is less than 75 percent for the 12-month reporting
14 period from January 1, 2006, to December 31, 2006, or is less than
15 80 percent for the 12-month reporting period from January 1,
16 2008, to December 31, 2008.

17 (b) Except as provided in subdivision (c), all beverage
18 containers sold or offered for sale in this state have a minimum
19 refund value of eight cents (\$0.08) for every two beverage
20 containers redeemed and four cents (\$0.04) for a single or unpaired
21 beverage container redeemed in a single transaction.

22 (c) Notwithstanding subdivision (b), a single or unpaired
23 beverage container of 24 fluid ounces or larger shall have a
24 minimum refund value of eight cents (\$0.08).

25 (d) (1) The department shall periodically review the fund to
26 ensure that there are adequate funds in the fund to pay refund
27 values and other disbursements required by this division.

28 (2) If the department determines, pursuant to a review made
29 pursuant to paragraph (1), that there may be inadequate funds to
30 pay the refund values and necessary disbursements required by
31 this division, the department shall immediately notify the
32 Legislature of the need for urgent legislative action.

33 (3) On or before 180 days after the notice is sent pursuant to
34 paragraph (2), the department may reduce or eliminate
35 expenditures, or both, from the fund as necessary, according to the
36 procedure set forth in Section 14581, to ensure that there are
37 adequate funds in the fund to pay the refund values and other
38 disbursements required by this division.

39 (e) This section does not apply to a refillable beverage
40 container.

~~(f) The repeal and reenactment of this section by Chapter 23 of the Statutes of 1999 does not affect any obligations or penalties imposed by this section, as it read on January 1, 1999.~~

~~SEC. 10. Section 14561 of the Public Resources Code is amended to read:~~

~~14561. (a) A beverage manufacturer shall clearly indicate on all beverage containers sold or offered for sale by that beverage manufacturer in this state the message "CA Redemption Value," "California Redemption Value," "CA Cash Refund," or "California Cash Refund," by either printing or embossing the beverage container or by securely affixing a clear and prominent stamp, label, or other device to the beverage container.~~

~~(b) Any refillable beverage container sold or offered for sale is exempt from this section. However, any beverage manufacturer or container manufacturer may place upon, or affix to, a refillable beverage container, any message that the manufacturer determines to be appropriate relating to the refund value of the beverage container.~~

~~(c) No person shall offer to sell, or sell to a consumer a beverage container subject to subdivision (a) that has not been labeled pursuant to this section, except for a refillable beverage container that is exempt from labeling pursuant to subdivision (b).~~

~~(d) The department may require that a beverage container intended for sale in this state be printed, embossed, stamped, labeled, or otherwise marked with a universal product code or similar machine-readable indicia.~~

~~(e) A beverage container labeled with the message specified in subdivision (a) shall have the minimum redemption payment established pursuant to Section 14560, which shall be paid by the distributor to the department pursuant to Section 14574.~~

~~SEC. 11. Section 14573.51 of the Public Resources Code is amended to read:~~

~~14573.51. (a) Notwithstanding any other provision of this division, recycling centers and processors shall not pay curbside programs more than the applicable statewide average curbside commingled rate unless the curbside program has received an individual commingled rate from the department pursuant to subdivision (b).~~

~~(b) The department may establish a procedure whereby the operators of curbside programs may apply for an individual~~

~~commingled rate for any material or types with or without a statewide commingled rate, including, but not limited to, glass, aluminum, bimetal, or any of the individual plastic resin types or combination of resin types identified by resin identification codes under Section 18015. These procedures shall require, at a minimum, all of the following:~~

~~(1) The individual rate shall be valid for no more than one year from the date the individual rate is authorized.~~

~~(2) The methodology used by the operator of the curbside program to determine the commingled rate shall be approved by the department, in advance.~~

~~(c) Curbside programs that have acquired an individual commingled rate, pursuant to this section, shall not be surveyed by the department to determine the statewide average curbside commingled rate during the period the individual commingled rate is effective.~~

~~(d) The department may enter into a contract for the services required to implement the amendments to this section made by the act of the first half of the 2003-04 Regular Session of the Legislature amending this section. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to subdivision (b).~~

~~SEC. 12. Section 14575 of the Public Resources Code is amended to read:~~

~~14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.~~

~~(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:~~

~~(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for, each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraphs (2) and (3) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.~~

~~(2) A reasonable financial return for recycling centers.~~

~~(c) The department shall base the processing payment pursuant to this section upon all of the following:~~

~~(1) The department shall use the average scrap values paid to recyclers between October 1, 2001, and September 30, 2002, for the 2003 calculation and the same 12-month period directly preceeding the year in which the processing fee is calculated for any subsequent calculation.~~

~~(2) To calculate the 2003 processing payments, the department shall use the recycling costs for certified recycling centers used to calculate the January 1, 2002, processing payments.~~

~~(3) For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.~~

~~(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling~~

~~1 non-PET plastic containers by certified recycling centers, to
2 determine the processing payment for those containers, the
3 department shall use a recycling cost of six hundred forty-two
4 dollars and sixty nine cents (\$642.69) per ton for the January 1,
5 2002, calculation of the processing payment.~~

~~6 (e) Except as specified in subdivision (f), the actual processing
7 fee paid by a beverage manufacturer shall equal 65 percent of the
8 processing payment calculated pursuant to subdivision (b).~~

~~9 (f) The department, consistent with Section 14581 and subject
10 to the availability of funds, shall reduce the processing fee paid by
11 beverage manufacturers by expending funds in each material
12 processing fee account, in the following manner:~~

~~13 (1) The processing fee in effect on and after the effective date
14 of the act amending this section, and on January 1, 2004, shall
15 equal the following amounts:~~

~~16 (A) For a container type that was subject to this division on
17 January 1, 1999, 12 percent of the processing payment, if the
18 recycling rate of that container type was equal to, or greater than,
19 60 percent for the 1999 calendar year.~~

~~20 (B) For a container type that was not subject to this division on
21 January 1, 1999, 12 percent of the processing payment, if the
22 recycling rate of that container type was equal to, or greater than,
23 60 percent for the 2001 calendar year.~~

~~24 (C) For a container type that was not subject to this division on
25 January 1, 1999, 15 percent of the processing payment if the
26 recycling rate for that container type was equal to, or greater than,
27 45 percent, but less than 60 percent for the 2001 calendar year.~~

~~28 (D) For a container type that was not subject to this division on
29 January 1, 1999, 20 percent of the processing payment if the
30 recycling rate for that container type was equal to, or greater than,
31 30 percent, but less than 45 percent, for the 2001 calendar year.~~

~~32 (2) On January 1, 2005, and annually thereafter, the processing
33 fee shall equal the following amounts:~~

~~34 (A) Ten percent of the processing payment for a container type
35 with a recycling rate equal to or greater than 75 percent.~~

~~36 (B) Eleven percent of the processing payment for a container
37 type with a recycling rate equal to or greater than 65 percent, but
38 less than 75 percent.~~

1 ~~(C) Twelve percent of the processing payment for a container~~
2 ~~type with a recycling rate equal to or greater than 60 percent, but~~
3 ~~less than 65 percent.~~

4 ~~(D) Thirteen percent of the processing payment for a container~~
5 ~~type with a recycling rate equal to or greater than 55 percent, but~~
6 ~~less than 60 percent.~~

7 ~~(E) Fourteen percent of the processing payment for a container~~
8 ~~type with a recycling rate equal to or greater than 50 percent, but~~
9 ~~less than 55 percent.~~

10 ~~(F) Fifteen percent of the processing payment for a container~~
11 ~~type with a recycling rate equal to or greater than 45 percent, but~~
12 ~~less than 50 percent.~~

13 ~~(G) Eighteen percent of the processing payment for a container~~
14 ~~type with a recycling rate equal to or greater than 40 percent, but~~
15 ~~less than 45 percent.~~

16 ~~(H) Twenty percent of the processing payment for a container~~
17 ~~type with a recycling rate equal to or greater than 30 percent, but~~
18 ~~less than 40 percent.~~

19 ~~(I) Sixty-five percent of the processing payment for a container~~
20 ~~type with a recycling rate less than 30 percent.~~

21 ~~(3) The department shall calculate the recycling rate for~~
22 ~~purposes of paragraph (2) based on the 12-month period ending on~~
23 ~~June 30 that directly precedes the date of the January 1 processing~~
24 ~~fee determination.~~

25 ~~(g) Not more than once every three months, the department~~
26 ~~may make an adjustment in the amount of the processing payment~~
27 ~~established pursuant to this section, notwithstanding any change~~
28 ~~in the amount of the processing fee established pursuant to this~~
29 ~~section, for any beverage container, if the department makes all of~~
30 ~~the following determinations:~~

31 ~~(1) The statewide scrap value paid by processors for the~~
32 ~~material type for the most recent available 12-month period~~
33 ~~directly preceding the quarter in which the processing payment is~~
34 ~~to be adjusted is 5 percent more or 5 percent less than the average~~
35 ~~scrap value used as the basis for the processing payment currently~~
36 ~~in effect.~~

37 ~~(2) Funds are available in the processing fee account for the~~
38 ~~material type.~~

39 ~~(3) Adjusting the processing payment is necessary to further~~
40 ~~the objectives of this division.~~

~~(h) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.~~

~~(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.~~

~~(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.~~

~~(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars (\$1,000).~~

~~(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.~~

~~(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this~~

1 paragraph on or before January 31 of the calendar year preceding
2 the year in which the payment will be due.

3 ~~(4) The department shall pay the processing payments on~~
4 ~~redeemed containers to processors, in the same manner as it pays~~
5 ~~refund values pursuant to Sections 14573 and 14573.5. The~~
6 ~~processor shall pay the recycling center the entire processing~~
7 ~~payment representing the actual cost and financial return incurred~~
8 ~~by the recycling center, as specified in subdivision (b).~~

9 ~~(i) When assessing processing fees pursuant to subdivision (a),~~
10 ~~the department shall assess the processing fee on each container~~
11 ~~sold, as provided in subdivisions (e) and (f), by the type of material~~
12 ~~of the container, assuming that every container sold will be~~
13 ~~redeemed for recycling, whether or not the container is actually~~
14 ~~recycled.~~

15 ~~(j) The container manufacturer, or a designated agent, shall pay~~
16 ~~to, or credit, the account of the beverage manufacturer in an~~
17 ~~amount equal to the processing fee.~~

18 ~~(k) If, at the end of any calendar year for which glass recycling~~
19 ~~rates equal or exceed 45 percent and surplus funds remain in the~~
20 ~~glass processing fee account or if, at the end of any calendar year~~
21 ~~for which PET recycling rates equal or exceed 45 percent and~~
22 ~~surplus funds remain in the PET processing fee account, the~~
23 ~~department may use these surplus funds in the respective~~
24 ~~processing fee accounts in the following calendar year to reduce~~
25 ~~the amount of the processing fee that would otherwise be due from~~
26 ~~glass or PET beverage manufacturers pursuant to this subdivision.~~

27 ~~(1) The department shall reduce the glass or PET processing~~
28 ~~fee amount pursuant to this subdivision in addition to any~~
29 ~~reduction for which the glass or PET beverage container qualifies~~
30 ~~under subdivision (g).~~

31 ~~(2) The department shall determine the processing fee~~
32 ~~reduction by dividing two million dollars (\$2,000,000) from each~~
33 ~~processing fee account by an estimate of the number of containers~~
34 ~~sold or transferred to a distributor during the previous calendar~~
35 ~~year, based upon the latest available data.~~

36 ~~SEC. 13. Section 14575.1 of the Public Resources Code is~~
37 ~~amended to read:~~

38 ~~14575.1. (a) Notwithstanding subdivision (b) of Section~~
39 ~~14575, if a willing purchaser offers to purchase empty PET~~
40 ~~containers at a voluntary artificial scrap value that is equal to the~~

1 ~~processing fee reduced pursuant to subdivision (f) of Section~~
2 ~~14575 when applied to all containers sold, no processing fee shall~~
3 ~~be imposed on PET containers pursuant to Section 14575.~~

4 ~~(b) If a willing purchaser offers to pay a voluntary artificial~~
5 ~~scrap value, the department shall, on a monthly basis, determine~~
6 ~~whether the sum of the voluntary artificial scrap value and~~
7 ~~payments made from the PET Processing Fee Account pursuant to~~
8 ~~subdivision (f) of Section 14575, are equal to, or more than, the~~
9 ~~recycling cost for empty PET containers determined pursuant to~~
10 ~~subdivision (d) of Section 14575.~~

11 ~~(c) If the department determines that, for any monthly period,~~
12 ~~the sum of the voluntary artificial scrap value and payments made~~
13 ~~from the PET Processing Fee Account pursuant to subdivision (f)~~
14 ~~of Section 14575, is less than the recycling cost for empty PET~~
15 ~~containers, determined pursuant to Section 14575, the following~~
16 ~~requirements shall apply:~~

17 ~~(1) The department shall immediately provide written~~
18 ~~notification of the deficiency for that monthly period and the~~
19 ~~amount of that deficiency to any willing purchaser.~~

20 ~~(2) A willing purchaser shall correct the deficiency in the next~~
21 ~~monthly period by adjusting the voluntary artificial scrap value by~~
22 ~~an amount sufficient to equal the recycling cost for empty PET~~
23 ~~containers plus the previous monthly period's deficiency.~~

24 ~~(3) If the deficiency and amount in arrears is not corrected~~
25 ~~within 30 days of providing written notice to willing purchasers of~~
26 ~~empty PET containers, the department shall impose a processing~~
27 ~~fee pursuant to Section 14575 which includes any amount~~
28 ~~necessary, including any amount in arrears, to cover the cost of~~
29 ~~recycling empty PET containers.~~

30 ~~(d) If the department determines that, for any monthly period,~~
31 ~~the sum of the voluntary artificial scrap value and payments made~~
32 ~~from the PET Processing Fee Account pursuant to subdivision (f)~~
33 ~~of Section 14575, is greater than the recycling cost for empty PET~~
34 ~~containers, the department shall do both of the following:~~

35 ~~(1) Immediately provide written notification of the deviation~~
36 ~~for that monthly period and the amount of that deviation to any~~
37 ~~willing purchaser.~~

38 ~~(2) Provide a credit equal to the amount of the deviation for any~~
39 ~~future monthly period wherein the voluntary artificial scrap value,~~
40 ~~and payments made from the PET Processing Fee Account, are~~

1 ~~less than the recycling cost of empty PET containers determined~~
2 ~~pursuant to subdivision (d) of Section 14575.~~

3 ~~(e) Nothing in this section is intended to affect any litigation~~
4 ~~that was pending on January 1, 1996, in which the department is~~
5 ~~a party of record.~~

6 ~~SEC. 14. Section 14575.2 is added to the Public Resources~~
7 ~~Code, to read:~~

8 ~~14575.2. (a) In order to ensure that only those funds~~
9 ~~necessary to cover the net cost of recycling each beverage~~
10 ~~container sold are paid by beverage manufacturers, the department~~
11 ~~shall establish a processing fee rebate for all beverage containers~~
12 ~~for which a processing fee was paid on containers sold between~~
13 ~~January 1, 2002, and December 31, 2003. The amount of the rebate~~
14 ~~for each container shall be equal to the difference between the~~
15 ~~processing fee established and paid pursuant to Section 14575 as~~
16 ~~it read on January 1, 2003, and the processing fee established~~
17 ~~pursuant to paragraph (1) of subdivision (f) of Section 14575 as it~~
18 ~~reads on the effective date of the act adding this section.~~

19 ~~(b) The department shall pay the processing fee rebate from the~~
20 ~~fund to beverage manufacturers on all beverage containers sold~~
21 ~~between January 1, 2002, and December 31, 2003, for which the~~
22 ~~beverage manufacturer paid a processing fee as determined by the~~
23 ~~department.~~

24 ~~(c) The department may not pay the processing fee rebate on or~~
25 ~~before July 1, 2004.~~

26 ~~(d) The department may deduct from the processing fee rebate~~
27 ~~any amount owed to the department by the beverage manufacturer.~~

28 ~~SEC. 15. Section 14575.5 is added to the Public Resources~~
29 ~~Code, to read:~~

30 ~~14575.5. (a) The department shall establish a supplemental~~
31 ~~processing payment to be paid to a processor. The processor shall~~
32 ~~pay the entire supplemental processing payment to a recycler that~~
33 ~~receives processing payments pursuant to Section 14575. The~~
34 ~~department shall determine the supplemental processing payment~~
35 ~~based on the volume of redeemed containers that the recycler~~
36 ~~reports for each whole month pursuant to subdivision (b);~~
37 ~~commencing on July 1, 2004, and continuing for a period of 12~~
38 ~~consecutive months.~~

39 ~~(1) Consistent with Section 14581 and subject to the~~
40 ~~availability of funds, the department shall establish a supplemental~~

1 processing payment for glass, PET plastic containers, and HDPE
2 plastic containers as follows:

3 (A) Forty dollars and eighty-six cents (\$40.86) for each ton of
4 glass beverage containers.

5 (B) One hundred eighty-two dollars and fifty-four cents
6 (\$182.54) for each ton of PET plastic beverage containers.

7 (C) Two hundred twenty-eight dollars and seventy-five cents
8 (\$228.75) for each ton of HDPE plastic beverage containers.

9 (2) The department may not make a supplemental processing
10 payment to a recycler for any volume reported for a whole month
11 that is not within the 12-month consecutive time period established
12 in subdivision (a).

13 (b) A recycler shall report to a processor the volume of
14 redeemed containers subject to the supplemental processing
15 payments established pursuant to paragraph (1) of subdivision (a)
16 no later than the 10th day following the end of the 12-month period
17 established in subdivision (a).

18 (c) The department shall pay the supplemental processing
19 payments on eligible redeemed containers to processors, in the
20 same manner as it pays refund values pursuant to Sections 14573
21 and 14573.5, except that paragraph (2) of subdivision (a) of
22 Section 14573.5 is not applicable. The processor shall pay a
23 recycler the entire supplemental processing payment as specified
24 in subdivision (a).

25 SEC. 16. Section 14581 of the Public Resources Code is
26 amended to read:

27 14581. (a) Subject to the availability of funds, and pursuant
28 to subdivision (c), the department shall expend the money set aside
29 in the fund, pursuant to subdivision (c) of Section 14580 for the
30 purposes of this section:

31 (1) Twenty-six million five hundred thousand dollars
32 (\$26,500,000) shall be expended annually for the payment of
33 handling fees required pursuant to Section 14585.

34 (2) Fifteen million dollars (\$15,000,000) shall be expended
35 annually for payments for curbside programs and neighborhood
36 dropoff programs pursuant to Section 14549.6.

37 (3) (A) Fifteen million dollars (\$15,000,000), plus the
38 proportional share of the cost of living adjustment, as provided in
39 subdivision (b), shall be expended annually in the form of grants

1 ~~for beverage container litter reduction programs and recycling~~
2 ~~programs issued to either of the following:~~

3 ~~(i) Certified community conservation corps that were in~~
4 ~~existence on September 30, 1999, or that are formed subsequent~~
5 ~~to that date, that are designated by a city or a city and county to~~
6 ~~perform litter abatement, recycling, and related activities, if the~~
7 ~~city or the city and county has a population, as determined by the~~
8 ~~most recent census, of more than 250,000 persons.~~

9 ~~(ii) Community conservation corps that are designated by a~~
10 ~~county to perform litter abatement, recycling, and related~~
11 ~~activities, and are certified by the California Conservation Corps~~
12 ~~as having operated for a minimum of two years and as meeting all~~
13 ~~other criteria of Section 14507.5.~~

14 ~~(B) Any grants provided pursuant to this paragraph shall not~~
15 ~~comprise more than 75 percent of the annual budget of a~~
16 ~~community conservation corps.~~

17 ~~(4) (A) Ten million five hundred thousand dollars~~
18 ~~(\$10,500,000) may be expended annually for payments of five~~
19 ~~thousand dollars (\$5,000) to cities and ten thousand dollars~~
20 ~~(\$10,000) for payments to counties for beverage container~~
21 ~~recycling and litter cleanup activities, or the department may~~
22 ~~calculate the payments to counties and cities on a per capita basis,~~
23 ~~and may pay whichever amount is greater, for those activities.~~

24 ~~(B) Eligible activities for the use of these funds may include,~~
25 ~~but are not necessarily limited to, support for new or existing~~
26 ~~curbside recycling programs, neighborhood dropoff recycling~~
27 ~~programs, public education promoting beverage container~~
28 ~~recycling, litter prevention, and cleanup, cooperative regional~~
29 ~~efforts among two or more cities or counties, or both, or other~~
30 ~~beverage container recycling programs.~~

31 ~~(C) These funds may not be used for activities unrelated to~~
32 ~~beverage container recycling or litter reduction.~~

33 ~~(D) To receive these funds, a city, county, or city and county~~
34 ~~shall fill out and return a funding request form to the Department~~
35 ~~of Conservation. The form shall specify the beverage container~~
36 ~~recycling or litter reduction activities for which the funds will be~~
37 ~~used.~~

38 ~~(E) The Department of Conservation shall annually prepare~~
39 ~~and distribute a funding request form to each city, county, or city~~
40 ~~and county. The form shall specify the amount of beverage~~

1 ~~container recycling and litter cleanup funds for which the~~
2 ~~jurisdiction is eligible. The form shall not exceed one double-sided~~
3 ~~page in length, and may be submitted electronically. If a city,~~
4 ~~county, or city and county does not return the funding request form~~
5 ~~within 90 days of receipt of the form from the department, the city,~~
6 ~~county, or city and county is not eligible to receive the funds for~~
7 ~~that funding cycle.~~

8 ~~(F) For the purposes of this paragraph, per capita population~~
9 ~~shall be based on the population of the incorporated area of a city~~
10 ~~or city and county and the unincorporated area of a county. The~~
11 ~~department may withhold payment to any city, county, or city and~~
12 ~~county that has prohibited the siting of a supermarket site, caused~~
13 ~~a supermarket site to close its business, or adopted a land use policy~~
14 ~~that restricts or prohibits the siting of a supermarket site within its~~
15 ~~jurisdiction.~~

16 ~~(5) (A) One million five hundred thousand dollars~~
17 ~~(\$1,500,000) may be expended annually in the form of grants for~~
18 ~~beverage container recycling and litter reduction programs.~~

19 ~~(B) Up to a total of six million eight hundred forty thousand~~
20 ~~dollars (\$6,840,000) shall be paid to the City of San Diego,~~
21 ~~between January 1, 2000, and January 1, 2004, for a curbside~~
22 ~~recycling program conducted pursuant to Section 14549.7.~~

23 ~~(6) (A) The department shall expend the amount necessary to~~
24 ~~pay the processing payment and supplemental processing payment~~
25 ~~established pursuant to Sections 14575 and 14575.5 and paying~~
26 ~~processing fee rebates pursuant to Section 14575.2. The~~
27 ~~department shall establish separate processing fee accounts in the~~
28 ~~fund for each beverage container material type for which a~~
29 ~~processing payment and processing fee is calculated pursuant to~~
30 ~~Section 14575, or for which a processing payment is calculated~~
31 ~~pursuant to Section 14575 and a voluntary artificial scrap value is~~
32 ~~calculated pursuant to Section 14575.1, into which account shall~~
33 ~~be deposited both of the following:~~

34 ~~(i) All amounts paid as processing fees for each beverage~~
35 ~~container material type pursuant to Section 14575.~~

36 ~~(ii) Funds to ensure an adequate balance in each processing fee~~
37 ~~account to pay the processing payments established in subdivision~~
38 ~~(b) of Section 14575 and adjusted pursuant to paragraphs (2) and~~
39 ~~(3) of subdivision (c) of, and subdivision (f) of, Section 14575, to~~
40 ~~reduce the processing fee to the level provided in subdivision (f)~~

1 of Section 14575 or to reflect the agreement by a willing purchaser
2 to pay a voluntary artificial scrap value pursuant to Section
3 14575.1, and to pay the supplemental processing payments
4 established in Section 14575.5.

5 (B) Notwithstanding Section 13340 of the Government Code,
6 the money in each processing fee account is hereby continuously
7 appropriated to the department for expenditure without regard to
8 fiscal years, for purposes of making processing payments and
9 supplemental processing payments, and reducing processing fees,
10 pursuant to Sections 14575 and 14575.5 and paying processing fee
11 rebates pursuant to Section 14575.2.

12 (7) Up to five million dollars (\$5,000,000) may be annually
13 expended by the department for the purposes of undertaking a
14 statewide public education and information campaign aimed at
15 promoting increased recycling of beverage containers.

16 (8) Up to three million dollars (\$3,000,000) shall be expended
17 annually for the payment of quality glass incentive payments
18 pursuant to Section 14549.1.

19 (9) (A) Three hundred thousand dollars (\$300,000) shall be
20 expended annually by the department, until January 1, 2004,
21 pursuant to a cooperative agreement entered into between the
22 department and Keep California Beautiful, a nonprofit 501(c)(3)
23 organization chartered by the State of California in 1990, for the
24 purpose of conducting statewide public education campaigns
25 aimed at preventing and cleaning up beverage containers and
26 related litter. The campaigns shall include, but not be limited to,
27 coordination of Keep California Beautiful month.

28 (B) Prior to making an expenditure pursuant to this paragraph,
29 the department shall enter into a cooperative agreement with Keep
30 California Beautiful.

31 (C) As part of the cooperative agreement, Keep California
32 Beautiful shall provide the department with an annual campaign
33 plan and budget, and a report of previous year campaign activities.

34 (10) Up to ten million dollars (\$10,000,000) may be expended
35 annually by the department, until January 1, 2007, to issue grants
36 for recycling market development and expansion-related activities
37 aimed at increasing the recycling of beverage containers,
38 including, but not limited to, the following:

1 ~~(A) Research and development of collecting, sorting,~~
2 ~~processing, cleaning, or otherwise upgrading the market value of~~
3 ~~recycled beverage containers.~~

4 ~~(B) Identification, development, and expansion of markets for~~
5 ~~recycled beverage containers.~~

6 ~~(C) Research and development for products manufactured~~
7 ~~using recycled beverage containers.~~

8 ~~(D) Payments to California manufacturers who recycle~~
9 ~~beverage containers that are marked by resin type identification~~
10 ~~codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.~~

11 ~~(11) Up to ten million dollars (\$10,000,000) may be transferred~~
12 ~~by the department to the Recycling Infrastructure Loan Guarantee~~
13 ~~Account, for expenditure pursuant to Section 14582.~~

14 ~~(b) The fifteen million dollars (\$15,000,000) that is set aside~~
15 ~~pursuant to paragraph (3) of subdivision (a) is a base amount that~~
16 ~~the department shall adjust annually to reflect any increases or~~
17 ~~decreases in the cost of living, as measured by the Department of~~
18 ~~Labor, or a successor agency, of the federal government.~~

19 ~~(c) (1) The department shall review all funds on a quarterly~~
20 ~~basis to ensure that there are adequate funds to make the payments~~
21 ~~specified in this section and the processing fee reductions required~~
22 ~~pursuant to Section 14575.~~

23 ~~(2) If the department determines, pursuant to a review made~~
24 ~~pursuant to paragraph (1), that there may be inadequate funds to~~
25 ~~pay the payments required by this section and the processing fee~~
26 ~~reductions required pursuant to Section 14575, the department~~
27 ~~shall immediately notify the appropriate policy and fiscal~~
28 ~~committees of the Legislature regarding the inadequacy.~~

29 ~~(3) On or before 180 days after the notice is sent pursuant to~~
30 ~~paragraph (2), the department may reduce or eliminate~~
31 ~~expenditures, or both, from the funds as necessary, according to~~
32 ~~the procedure set forth in subdivision (d).~~

33 ~~(d) If the department determines that there are insufficient~~
34 ~~funds to make the payments specified pursuant to this section and~~
35 ~~Section 14575, the department shall reduce all payments~~
36 ~~proportionally.~~

37 ~~(e) Prior to making an expenditure pursuant to paragraph (7) of~~
38 ~~subdivision (a), the department shall convene an advisory~~
39 ~~committee consisting of representatives of the beverage industry,~~
40 ~~beverage container manufacturers, environmental organizations,~~

~~the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost effective and efficient method of the expenditure of the funds for that education and information campaign.~~

~~SEC. 17. Section 14582 is added to the Public Resources Code, to read:~~

~~14582. The Recycling Infrastructure Loan Guarantee Account is hereby created as a revolving account in the California Beverage Container Recycling Fund, and the funds in that account are continuously appropriated to the department to issue loan guarantees for capital expenditures for new recycling infrastructure located in the state. The department may issue a loan guarantee from the account only if the department determines that the new recycling infrastructure adds recycling capacity, results in remanufacturing and reuse of beverage containers into new products, and complies with all applicable laws and regulations.~~

~~SEC. 18. Section 14585 of the Public Resources Code is amended to read:~~

~~14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:~~

~~(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.~~

~~(2) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler shall redeem not less than 60,000 beverage containers, during the calendar month in which the handling fee is claimed, or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months.~~

~~(3) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.~~

~~(4) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:~~

~~(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.~~

~~(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.~~

~~(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.~~

~~(5) The department shall pay a handling fee of 1.8 cents (\$0.018) per eligible beverage container, as determined pursuant to paragraph (4).~~

~~(6) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars (\$2,300) per month.~~

~~(7) If the eligible volume in any given month would result in handling fee payments which exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.~~

~~(8) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.~~

~~(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.~~

1 ~~(C) Notwithstanding subparagraph (A), any operator who fails~~
2 ~~to provide notification to the department pursuant to subparagraph~~
3 ~~(B) shall not be eligible to apply for handling fees.~~

4 ~~(b) The department may allocate the amount authorized for~~
5 ~~expenditure for the payment of handling fees pursuant to~~
6 ~~paragraph (1) of subdivision (a) of Section 14581 on a monthly~~
7 ~~basis and may carry over any unexpended monthly allocation to a~~
8 ~~subsequent month or months. However, unexpended monthly~~
9 ~~allocations shall not be carried over to a subsequent fiscal year for~~
10 ~~the purpose of paying handling fees but may be carried over for~~
11 ~~any other purpose pursuant to Section 14581.~~

12 ~~(c) (1) The department shall not make handling fee payments~~
13 ~~to more than one certified recycling center in a convenience zone.~~
14 ~~If a dealer is located in more than one convenience zone, the~~
15 ~~department shall offer a single handling fee payment to a~~
16 ~~supermarket site located at that dealer. This handling fee payment~~
17 ~~shall not be split between the affected zones. The department shall~~
18 ~~stop making handling fee payments if another recycling center~~
19 ~~certifies to operate within the convenience zone without receiving~~
20 ~~payments pursuant to this section, if the department monitors the~~
21 ~~performance of the other recycling center for 60 days and~~
22 ~~determines that the recycling center is in compliance with this~~
23 ~~division. Any recycling center that locates in a convenience zone,~~
24 ~~thereby causing a preexisting recycling center to become~~
25 ~~ineligible to receive handling fee payments, is ineligible to receive~~
26 ~~any handling fee payments in that convenience zone.~~

27 ~~(2) The department shall offer a single handling fee payment to~~
28 ~~a rural region recycler that is located anywhere inside a~~
29 ~~convenience zone that is not served by another certified recycling~~
30 ~~center and does either of the following:~~

31 ~~(A) Operates a minimum of 30 hours per week in one~~
32 ~~convenience zone.~~

33 ~~(B) Serves two or more convenience zones, and meets all of the~~
34 ~~following criteria:~~

35 ~~(i) Is the only certified recycler within each convenience zone.~~

36 ~~(ii) Is open and operating at least eight hours per week in each~~
37 ~~convenience zone and is certified at each location.~~

38 ~~(iii) Operates at least 30 hours per week in total for all~~
39 ~~convenience zones served.~~

1 ~~(d) The department may require the operator of a supermarket~~
2 ~~site or rural region recycler receiving handling fees to maintain~~
3 ~~records for each location where beverage containers are redeemed;~~
4 ~~and may require the supermarket site or rural region recycler to~~
5 ~~take any other action necessary for the department to determine~~
6 ~~that the supermarket site or rural region recycler does not receive~~
7 ~~an excessive handling fee.~~

8 ~~(e) The department may determine and utilize a standard~~
9 ~~container per pound rate, for each material type, for the purpose~~
10 ~~of calculating volumes and making handling fee payments.~~

11 ~~SEC. 19. No reimbursement is required by this act pursuant~~
12 ~~to Section 6 of Article XIII B of the California Constitution~~
13 ~~because the only costs that may be incurred by a local agency or~~
14 ~~school district will be incurred because this act creates a new crime~~
15 ~~or infraction, eliminates a crime or infraction, or changes the~~
16 ~~penalty for a crime or infraction, within the meaning of Section~~
17 ~~17556 of the Government Code, or changes the definition of a~~
18 ~~crime within the meaning of Section 6 of Article XIII B of the~~
19 ~~California Constitution.~~

20 ~~SEC. 20. This act is an urgency statute necessary for the~~
21 ~~immediate preservation of the public peace, health, or safety~~
22 ~~within the meaning of Article IV of the Constitution and shall go~~
23 ~~into immediate effect. The facts constituting the necessity are:~~

24 ~~In order to encourage the recycling of beverage containers,~~
25 ~~thereby better protecting public and health and safety and the~~
26 ~~environment, it is necessary that this act take effect immediately.~~
27